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OGC 70-0694

4 May 1970

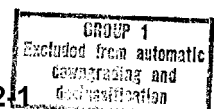
MEMORANDUM FOR THE RECORD

SUBJECT: GEHA - Tax on Investment Income from UBLIC Reserve Fund

REFERENCE: OGC 70-0336, Memo for the Record by Bennett, dtd 27 Feb 70, Subject: GEHA-Investment of Reserve Funds from UBLIC Program in Off-shore Securities or Other Interest Bearing Paper

1. In researching the problem presented in referent memorandum the question arose as to whether certain new provisions of the Tax Reform Act of 1969 would impose a tax on the investment income from the UBLIC reserve fund.
2. In August 1949 GEHA was granted tax-exempt status as a "Voluntary Employees' Beneficiary Association" under section 501(c)(10) of the Internal Revenue Code. By virtue of the Tax Reform Act of 1969, GEHA is still tax-exempt as a "Voluntary Employees' Beneficiary Association" but under section 501(c)(9).
3. Section 511 provides for a tax at corporate rates on the "unrelated business income" of most tax-exempt organizations. Section 512 which defines such income has been amended to provide special rules applicable to organizations described in section 501(c)(9). In effect, section 512(a)(3), applicable to GEHA, provides in relevant part that any income other than "exempt function income" is subject to tax as unrelated business income.

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4. An examination of the definition of "exempt function income" and Congressional hearings on the particular amendment suggested to the undersigned that the investment income from the UBLIC reserve fund might be taxable. The question was then raised with John Barber, Exempt Organizations Branch, Internal Revenue Service. After a cursory review, Barber was unable to declare definitively one way or the other. He suggested the question would have to be put to Revenue's technical people. To assist Barber in framing the query for the GEHA case, the undersigned put  directly in touch with Barber so that his information would be complete and exact.

5. On 30 April 1970 Barber by telecon advised the undersigned that he had been advised informally that the questioned income would probably qualify as "exempt function income" as long as it was dedicated to the tax-exempt purpose of the organization. This question along with many others of a priority nature is presently before the technical people for clarification prior to the issuance of new revenue regulations. Therefore, a definitive and formal response to the question might not be forthcoming for several months.

Office of General Counsel

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